

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 7 OF THE UNIFIED DEVELOPMENT  
REGULATIONS PERTAINING TO ENVIRONMENTAL PROTECTION  
STANDARDS OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
ASHEVILLE THAT:**

**Section 1: Section 7-2-5 (Definitions) of Chapter 7 of the Unified Development Ordinance of the City of Asheville is hereby amended by deleting the following definitions:**

*Best Management Practices Manual or BMP Manual* means the most recent City of Asheville manual of design, performance, and review criteria for stormwater management practices.

*Diversion* means a channel or ridge or combination thereof which is constructed across sloping land either on the contour or at a predetermined grade which purpose is to intercept and divert surface runoff before it gains sufficient volume and velocity to cause erosion and convey the surface runoff to a protected area.

*Illicit connection* means a connection to the City of Asheville Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the City of Asheville MS4).

*Illicit discharge* means any activity which results in a discharge to the City of Asheville Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES permit for the City of Asheville MS4) and (b) discharges resulting from the fire fighting activities.

*Impervious surface* means any paved, hardened or structural surface, including, but not limited to buildings, driveways, walkways, parking areas, patios, decks, streets, swimming pools, tennis courts, and other structures, that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land.

*Intermittent stream* means a stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and no long-continued supply from melting snow or other sources. It is dry for a large part of the year.

*NPDES permit* means the NPDES permit for stormwater discharges issued to the City of Asheville pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26).

*Stormwater management design manual* means the technical manual adopted by the City of Asheville which provides standard specifications for the administration and enforcement of section 7-12-2 of this chapter.

*Stormwater management facility* means for quantitative and qualitative control, a system of vegetative and/or structural measures which control the increased volume and rate of surface run-off and pollutants carried in those waters caused by manmade changes to the land and which have the effect of maintaining the pre-development patterns of flood magnitude and frequency.

*Swale* means an elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and provide some groundwater recharge.

*Top of bank* means the ordinary high water mark for a water basin or wetland, and the break in slope for a watercourse.

*Tract for the purposes of section 7-12-2* means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership. Tract shall also have the meaning as the term “site.”

*Water quality* means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

*Water quantity* means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

*Wetland* means areas that are inundated or saturated at a frequency and for a duration sufficient to support a prevalence of vegetative or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction.

**Section 2: Section 7-2-5 (Definitions) of Chapter 7 of the Unified Development Ordinance of the City of Asheville is hereby amended by adding the following definitions:**

*Aquatic Buffer.* A linear strip of land, free of built-upon area, adjacent to a lake or natural water course.

*Best Management Practices Manual or BMP Manual.* The most recent version of the City of Asheville’s manual of design, performance, and review criteria for stormwater management practices. Provided however, to the extent such a manual does not exist or its use has been discontinued, then the manual shall be the one adopted by the North Carolina Department of Environment and Natural Resources (NCDENR) and supplemented by the NCDENR Low-Impact Design Manual once adopted.

*Common Plan of Development.* A construction or land disturbing activity is part of a larger common plan of development if it is completed in one or more of the following ways: in separate stages; in separate phases; or in combination with other construction activities. It is identified by the documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, plats, blueprints, marketing plans, contracts, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot; it can include one operator or many operators.

*Days.* Unless otherwise specified herein, days shall constitute calendar days.

*Designated Landscape Buffer* means a strip of real property with a minimum width of 20 feet where existing vegetation or new plantings are designed to mitigate adverse impacts between dissimilar zoning designations as described in Sec. 7-11-3(d)1.

*Diversion.* A channel or ridge or combination thereof which is constructed across sloping land either on the contour or at a predetermined grade which purpose is to intercept and divert surface runoff.

*Ephemeral Streams.* Ephemeral streams are generally watercourses without a well-defined channel that flow only in direct response to recent precipitation. Ephemeral streams are generally dry within 72 to 120 hours after a rainfall event. Any waters not determined to be perennial or intermittent under the definitions set forth in this section shall be deemed ephemeral waters.

*Illicit Discharge.* Any activity not exempted herein which results in a discharge to the City of Asheville Stormwater System or receiving waters that is not composed entirely of stormwater.

*Impervious Surface.* Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to, compacted earth, traffic-bearing gravel, concrete, asphalt, or other paving material, and all area covered by the footprint of buildings or structures. Uncovered slatted decks and the water area of a swimming pool, pond, or other water body are considered pervious.

*Intermittent Stream.* A natural drainage way that is shown as a dashed blue line on the most recent version of the USGS 7.5-minute quadrangle maps or depicted as a dashed line on the most recent version of the maps of the Soil Survey of Buncombe County from the U.S. Department of Agriculture shall be considered an intermittent stream for the purposes of this section.

*Lawn.* An area that consists of open, grass-covered land and is maintained at a low, even height, in close proximity to a residential or commercial structure.

*Level Spreader.* A stormwater BMP consisting of a non-erodible linear structure constructed at virtually zero percent grade that serves the purpose of converting concentrated stormwater flow into diffuse sheet flow that discharges into a vegetated area. The main purposes of level spreaders are to prevent erosion and to increase the interaction between stormwater and the vegetation and soils in a filter strip or aquatic buffer. Under diffuse, sheet flow conditions, the vegetation and soils bring about pollutant removal via filtration, infiltration, sorption, and volatilization.

*Maximum Extent Practicable.* To control and treat stormwater runoff in the most effective way that can be obtained at a reasonable cost given the state of the art stormwater management and the specific conditions of the site and project. In no case shall maximum extent practicable represent a standard of management that is less effective than any applicable standard set forth in North Carolina law, including but not limited to 15A NCAC 2H .1008, 15A NCAC 2H .0126 and 15A NCAC 2H .1014, or in any applicable part of the City of Asheville's Best Management Practices Manual.

*NPDES Permit.* The NPDES permit for stormwater discharges issued to the City of Asheville or other entities, as applicable, pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26).

*Perennial Streams.* Streams or natural drainage ways that have essentially continuous flows or are shown as continuous blue lines on the most recent version of the USGS 7.5-minute quadrangle maps and depicted as a continuous line on the most recent version of the maps of the Soil Survey of Buncombe County from the U.S. Department of Agriculture shall be considered a perennial stream for the purposes of this section.

*Stormwater BMP Manual.* See definition for Best Management Practices Manual or BMP Manual.

*Stormwater Management Facility.* For quantitative and qualitative control, a system of vegetative and/or structural measures which control the increased volume and rate of surface run-off and pollutants carried in those waters caused by man-made changes to the land.

*Stormwater Permit.* See definition for Permit, Grading and Stormwater.

*Stream Alteration:* A change of the water-carrying capacity or flow of a natural water course.

*Stream Bank.* The location of the upper edge of the active stream above which the water spreads into the overbank areas on either side of the stream or the elevation of the average annual storm. Where the stream bank is not well defined, it shall be considered the edge of the waterline during a one-year frequency storm.

*Structural BMP.* Physical structures requiring engineering design and engineered construction that are designed to remove pollutants from stormwater, runoff, reduce downstream erosion, provide flood control, and promote groundwater recharge.

*Swale.* An elongated depression in the land surface that is at least occasionally wet, may be heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and provide water quality treatment and groundwater recharge.

*Top of bank.* See definition for Stream Bank.

*Total Maximum Daily Load (TMDL).* A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is a detailed water quality assessment that provides the scientific foundation for an implementation plan. The implementation plan outlines the steps necessary to reduce pollutant loads in a certain body of water to restore and maintain water quality standards in all seasons. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs.

*Watershed Overlay Zone.* Those areas as listed on the Watershed Overlay Zone Inventory and which is inclusive of all critical areas of water supply watersheds, high quality waters, outstanding resource waters as delineated by the State, and Total Maximum Daily Load (TMDL) reports.

*Wetland.* Areas that are inundated or saturated at a frequency and for a duration sufficient to support a prevalence of vegetative or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction. Those areas regulated under Section 404 of the Clean Water Act as identified under guidelines employed by the United States Army Corps of Engineers in evaluating permit applications under 33 USC 1344 and applicable federal regulations. Wetlands also include areas defined by the State of North Carolina as "isolated wetlands."

**Section 3:** *Full force and effect.* This Ordinance shall be in full force and effect upon adoption.

Read, approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney

